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Cung Le, Nathan Quarry, and Jon Fitch, Bradon Vera, Luis
Javier Vazquez, and Kyle Kingsbury*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Cung Le, Nathan Quarry, and Jon Fitch, Bradon Vera, Luis Javier Vazquez, and Kyle Kingsbury, on behalf of themselves and all others similarly situated,

Plaintiffs,

V.

**Zuffa, LLC, d/b/a Ultimate Fighting
Championship and UFC.**

Defendant.

No.: 2:15-cv-01045-RFB-(PAL)

**DECLARATION OF MATTHEW S. WEILER
IN SUPPORT OF PLAINTIFF NATHAN
QUARRY'S OPPOSITION TO ZUFFA,
LLC'S MOTION FOR PARTIAL SUMMARY
JUDGMENT**

1 I, Mathew S. Weiler, declare and state as follows:

2 1. I am an attorney at the Joseph Saveri Law Firm, Inc., Co-Lead Counsel for the Classes
3 and Attorneys for Individual and Representative Plaintiffs Cung Le, Nathan Quarry, Jon Fitch, Luis
4 Javier Vazquez, Brandon Vera, and Kyle Kingsbury. I am a member in good standing of the State Bar of
5 California, and have been admitted *pro hac vice* in this Court. I am over 18 years of age and have personal
6 knowledge of the facts stated in this Declaration. If called as a witness, I could and would testify
7 competently to them.

8 2. I make this declaration in opposition to Zuffa, LLC's ("Zuffa's") motion for partial
9 summary judgment.

10 3. Attached as Exhibit 1 is a true and correct copy of excerpts from the deposition of
11 Nathan Quarry taken in this matter on September 30, 2016.

12 4. Attached as Exhibit 2 is a printout from the Youtube website of a video "Top 20
13 Knockouts in UFC History" that bears the publication date of November 12, 2013. This video was
14 posted by the UFC on its Youtube channel on or around November 12, 2013. This video is available at
15 <https://www.youtube.com/watch?v=LWE79K2Ii-s&t=115s>, last visited on March 23, 2017.

16 5. Attached as Exhibit 3 is a true and correct copy of excerpts from the deposition of
17 Marshall Zelaznik taken in this matter on February 8, 2017.

18 6. Attached as Exhibit 4 is a true and correct copy of a document bearing the Bates label
19 ZFL-0916483 through ZFL-0916485. This document was produced by Zuffa to Plaintiffs in discovery. It
20 was introduced in the deposition of Marshall Zelaznik as Exhibit 175.

21 7. Attached as Exhibit 5 is a printout of eleven webpages from Zuffa's Fight Pass service.
22 These printouts were made from the website <https://www.ufc.tv/page/fightpass>, last accessed March
23 2017. Each of these eleven webpages is a printout of videos featuring fights by Plaintiff Quarry. Nine
24 of the webpages are printouts of videos from Plaintiff Quarry's fights in the UFC. One printout is of a
25 video of Plaintiff Quarry's fight in The Ultimate Fighter Season 1. One printout is out a fight Plaintiff
26 Quarry had in "Gladiator Challenge 14." The addresses at which these videos can be viewed, and the
27 events at which Plaintiff Quarry fought, are included in the chart below.

28 <https://www.ufc.tv/video/nathan-quarry-vs-jorge-lopez-gladiator->

Gladiator 14

1	challenge-14	
2	https://www.ufc.tv/video/nate-quarry-vs-lodune-sincade-tuf-1-finale	The Ultimate Fighter
3	https://www.ufc.tv/video/nathan-quarry-vs-shonie-carter-ufc-53	UFC 53
4	https://www.ufc.tv/video/nate-quarry-vs-pete-sell-ufn-1	UFC Fight Night 1
5	https://www.ufc.tv/video/rich-franklin-vs-nate-quarry-ufc-56	UFC 56
6	https://www.ufc.tv/video/nate-quarry-vs-pete-sell-ufn-11	UFC Fight Night 11
7	https://www.ufc.tv/video/nate-quarry-vs-kalib-starnes-ufc-83	UFC 83
8	https://www.ufc.tv/video/demian-maia-vs-nate-quarry-ufc-91	UFC 91
9	https://www.ufc.tv/video/jason-macdonald-vs-nate-quarry-ufc-97	UFC 97
10	https://www.ufc.tv/video/nate-quarry-vs-tim-credeur-ufn-19	UFC Fight Night 19
11	https://www.ufc.tv/video/jorge-rivera-vs-nate-quarry-ufn-21	UFC Fight Night 21

11 8. Attached hereto as Exhibit 6 is a spreadsheet created at my direction that shows royalties
 12 Zuffa received from the sale of videos of fights featuring Plaintiff Quarry for some months in 2010, 2011,
 13 and 2014. This spreadsheet was created by searching Zuffa's document productions for information
 14 concerning royalties Zuffa received from the sales of videos or digital content by Amazon, Sony, or
 15 Xbox. The documents from which this spreadsheet is derived are listed in the chart below by Bates
 16 number. All of the documents in the chart were produced by Zuffa to Plaintiffs in this litigation. This
 17 spreadsheet does not reflect all of the sales by Amazon, Sony, or Xbox of videos featuring Plaintiff
 18 Quarry. The spreadsheet reflects only certain transactions between December 2010 and July 2011, and
 19 from certain months in 2014. This document was created using Microsoft's Excel application by
 20 isolating the entries specific to Plaintiff Quarry's bouts within each of these files. These entries were
 21 then concatenated within a single spreadsheet, further paring that listing down to include only unique
 22 entries based on transaction date, transaction source, and title.

Doc ID	File Name / Subject	File Ext	Doc Date
ZFL-0955165	TUF-2014_4-30-15.xlsx	.xlsx	3/23/2015
ZFL-1131338	Sony Content.xlsx	.xlsx	3/23/2015
ZFL-1131339	Amazon content.xlsx	.xlsx	3/23/2015
ZFL-1131340	XBOX content2.xlsx	.xlsx	3/23/2015
ZUF-00038466	VideoRoyalty.xls	.xls	1/5/2011
ZUF-00044936	VideoRoyalty.xls	.xls	6/16/2011
ZUF-00044940	VideoRoyalty.xls	.xls	6/13/2011
ZUF-00044944	VideoRoyalty.xls	.xls	6/9/2011

1	ZUF-00044948	VideoRoyalty.xls	.xls	6/7/2011
2	ZUF-00044954	VideoRoyalty.xls	.xls	5/31/2011
3	ZUF-00044958	VideoRoyalty.xls	.xls	5/24/2011
4	ZUF-00044960	VideoRoyalty.xls	.xls	5/23/2011
5	ZUF-00044972	VideoRoyalty.xls	.xls	5/18/2011
6	ZUF-00044974	VideoRoyalty.xls	.xls	5/18/2011
7	ZUF-00044982	VideoRoyalty.xls	.xls	5/6/2011
8	ZUF-00044988	VideoRoyalty.xls	.xls	5/2/2011
9	ZUF-00044996	VideoRoyalty.xls	.xls	4/27/2011
10	ZUF-00045000	VideoRoyalty.xls	.xls	4/26/2011
11	ZUF-00045002	VideoRoyalty.xls	.xls	4/24/2011
12	ZUF-00045008	VideoRoyalty.xls	.xls	4/20/2011
13	ZUF-00045010	VideoRoyalty.xls	.xls	4/19/2011
14	ZUF-00045016	VideoRoyalty.xls	.xls	4/14/2011
15	ZUF-00045018	VideoRoyalty.xls	.xls	4/13/2011
16	ZUF-00045020	VideoRoyalty.xls	.xls	4/12/2011
17	ZUF-00045024	VideoRoyalty.xls	.xls	4/10/2011
18	ZUF-00045028	VideoRoyalty.xls	.xls	4/7/2011
19	ZUF-00045032	VideoRoyalty.xls	.xls	4/5/2011
20	ZUF-00045044	VideoRoyalty.xls	.xls	3/28/2011
21	ZUF-00045050	VideoRoyalty.xls	.xls	3/25/2011
22	ZUF-00045054	VideoRoyalty.xls	.xls	3/21/2011
23	ZUF-00045066	VideoRoyalty.xls	.xls	3/13/2011
24	ZUF-00045086	VideoRoyalty.xls	.xls	3/1/2011
25	ZUF-00045088	VideoRoyalty.xls	.xls	3/1/2011
26	ZUF-00045090	VideoRoyalty.xls	.xls	3/1/2011
27	ZUF-00045092	VideoRoyalty.xls	.xls	3/1/2011
28	ZUF-00045102	VideoRoyalty.xls	.xls	2/21/2011
29	ZUF-00045114	VideoRoyalty.xls	.xls	2/15/2011
30	ZUF-00045118	VideoRoyalty.xls	.xls	2/9/2011
31	ZUF-00045120	VideoRoyalty.xls	.xls	2/8/2011
32	ZUF-00045126	VideoRoyalty.xls	.xls	2/5/2011
33	ZUF-00045128	VideoRoyalty.xls	.xls	2/4/2011
34	ZUF-00045132	VideoRoyalty.xls	.xls	2/3/2011
35	ZUF-00045148	VideoRoyalty.xls	.xls	1/20/2011
36	ZUF-00045156	VideoRoyalty.xls	.xls	1/8/2011
37	ZUF-00045895	VideoRoyalty.xls	.xls	7/17/2011
38	ZUF-00045940	VideoRoyalty.xls	.xls	6/15/2011
39	ZUF-00045951	VideoRoyalty.xls	.xls	6/3/2011
40	ZUF-00046209	VideoRoyalty.xls	.xls	5/26/2011
41	ZUF-00046215	VideoRoyalty.xls	.xls	5/17/2011
42	ZUF-00046268	VideoRoyalty.xls	.xls	3/29/2011
43	ZUF-00046270	VideoRoyalty.xls	.xls	3/23/2011
44	ZUF-00046274	VideoRoyalty.xls	.xls	3/14/2011
45	ZUF-00046539	VideoRoyalty.xls	.xls	2/10/2011
46	ZUF-00049798	VideoRoyalty.xls	.xls	7/16/2011
47	ZUF-00049800	VideoRoyalty.xls	.xls	7/15/2011
48	ZUF-00049806	VideoRoyalty.xls	.xls	7/11/2011
49	ZUF-00049812	VideoRoyalty.xls	.xls	7/7/2011

1	ZUF-00050063	VideoRoyalty.xls	.xls	4/9/2011
2	ZUF-00050067	VideoRoyalty.xls	.xls	2/9/2011
3	ZUF-00051305	VideoRoyalty.xls	.xls	4/7/2011
4	ZUF-00051498	VideoRoyalty.xls	.xls	1/28/2011
5	ZUF-00051502	VideoRoyalty.xls	.xls	1/25/2011
6	ZUF-00398848	Sony-Video-M-02-01-2011_UFC.xls	.xls	3/29/2011
7	ZUF-00398905	US-Sony-Video-M-01-01-2011_UFC.xls	.xls	2/28/2011
8	ZUF-00401882	US-Sony-Video-M-04-01-2011_UFC.xls	.xls	5/9/2011
9	ZUF-00403133	VideoRoyalty.xls	.xls	7/26/2011
10	ZUF-00404096	US-Sony-Video-M-01-01-2011_UFC.xls	.xls	2/25/2011
11	ZUF-00404475	Sony-Video-M-02-01-2011_UFC.xls	.xls	3/17/2011

9. Attached as Exhibit 7 is a printout from the UFC's website of a video "Submission of the
 10 Week: Demian Maia vs. Nate Quarry" that bears the publication date of January 24, 2012. This video
 11 can be accessed on the UFC's website at the address <http://www.ufc.com/media/SUB-Maia-Quarry-0091>, last visited March 23, 2017.

12. Attached as Exhibit 8 is a printout from the UFC's website of a video "UFC Unleashed Ep. 102 Josh Koscheck, Chris Leben, e Joe Riggs" that bears a publication date of September 13, 2013. This video can be accessed on the UFC's website at the address <http://www.ufc.com.br/media/ufc-unleashed-102>, last accessed March 23, 2017.

13. Attached as Exhibit 9 is a printout from the MMA Junkie Internet-based magazine dated January 22, 2010. This page can be accessed at <http://mmajunkie.com/2010/01/spike-tv-features-brock-lesnar-in-ufc-unleashed-episodes-tonight>, last accessed March 23, 2017.

14. Attached as Exhibit 10 is a printout from the UFC's website of a video "UFC Unleashed Ep. 107 Nick Diaz, Nate Quarry, and Karo Parisyan" that bears a publication date of September 13, 2013. This video can be accessed on the UFC's website at the address <http://www.ufc.com/media/ufc-unleashed-107?id=>, last accessed March 23, 2017.

15. Attached as Exhibit 11 is a printout from the UFC's website of a story "16 Bizarre Moments in UFC History," that bears the publication date of March 26, 2013. This story can be accessed at the UFC's website at the address <http://www.ufc.com/news/ufc-16-crazy-moments?id=>, last accessed March 23, 2017.

1 14. Attached as Exhibit 12 is a printout from the UFC's website of a story "Behind the Lens:
 2 UFC Photog's Favorite KOs," that bears the publication date June 10, 2016. This story can be accessed
 3 at the UFC's website at the address <http://www.ufc.com/news/ufc-16-crazy-moments?id=>, last
 4 accessed March 23, 2017.

5 15. Attached as Exhibit 13 is a printout from a website www.ufcstore.com. This printout can
 6 be accessed at <http://www.ufcstore.com/search/quarry>, last accessed March 23, 2017.

7 16. Attached as Exhibit 14 is a true and correct copy of a document bearing the Bates label
 8 ZFL-1843874 through ZFL-1843897. This document was produced by Zuffa to Plaintiffs in discovery.
 9 This document appears to be a true and correct copy of the License Agreement entered into between
 10 Zuffa and The Topps Company, Inc. dated June 5, 2008.

11 17. Attached as Exhibit 15 is a true and correct copy of a document bearing the Bates label
 12 ZFL-1236217 through ZFL-1236219. This document was produced by Zuffa to Plaintiffs in discovery.
 13 This document appears to be a true and correct copy of the Third Amendment To License Agreement
 14 entered into between Zuffa and The Topps Company, Inc. in 2011.

15 18. Attached as Exhibit 16 is a printout from a webpage from Sports Card Radio. This
 16 printout can be accessed at <http://www.sportscardradio.com/2010-topps-ufc-knockout-set-checklist/>,
 17 last accessed March 23, 2017.

18 19. Attached as Exhibit 17 is a printout from the website the Cardboard Connection. This
 19 printout can be accessed at <http://www.cardboardconnection.com/ufc-cards/2013-topps-ufc-knockout-trading-cards>, last accessed March 23, 2017.

21 20. Attached as Exhibit 18 is a true and correct copy of a document bearing the Bates label
 22 ZFL-2490106 through ZFL-2490235. This document appears to be a true and correct copy of the
 23 License Agreement between Zuffa and Reebok International Limited dated November 26, 2014.

24 21. Attached as Exhibit 19 is a spreadsheet that was created at my direction that compiles
 25 sales of Getty Images photographs containing the image or likeness of Plaintiff Quarry for some part of
 26 2011. The documents from which this spreadsheet is derived are listed in the chart below by Bates
 27 number. All of the documents in the chart were produced by Zuffa to Plaintiffs in this litigation. These
 28 spreadsheets were the only documents Plaintiffs could locate that provide a detailed account of the sales

1 of photographs by Getty Images of UFC Fighters. Plaintiffs believe that these sales are merely
 2 representative of the many sales of UFC Fighters' photographs Zuffa made through Getty images,
 3 including of Plaintiff Quarry's likeness or image. This spreadsheet was created using Microsoft's Excel
 4 application, isolating the entries containing image captions which identify Plaintiff Quarry as subject
 5 matter of the licensed item.

Doc ID	File Name / Subject	File Ext	Doc Date
ZUF-00084503	UFC2 2011-06.xls	.xls	7/11/2011
ZUF-00084504	UFC1 2011-06.xls	.xls	7/8/2011
ZUF-00298409	UFC2 2011-02.xls	.xls	3/8/2011
ZUF-00298410	UFC1 2011-02.xls	.xls	3/8/2011
ZUF-00298756	UFC1 2010-12.xls	.xls	1/12/2011
ZUF-00298757	UFC2 2010-12.xls	.xls	1/12/2011
ZUF-00298759	UFC2 2011-01.xls	.xls	2/15/2011
ZUF-00298760	UFC1 2011-01.xls	.xls	2/4/2011
ZUF-00298765	UFC2 2011-03.xls	.xls	4/18/2011
ZUF-00298766	UFC1 2011-03 (2).xls	.xls	4/18/2011
ZUF-00298768	UFC1 2011-04.xls	.xls	5/18/2011
ZUF-00298769	UFC2 2011-04.xls	.xls	5/18/2011
ZUF-00298771	UFC2 2011-05.xls	.xls	6/10/2011
ZUF-00298772	UFC1 2011-05.xls	.xls	6/8/2011

19 22. Attached as Exhibit 20 is a printout from Getty Images' website of photographs of
 20 Plaintiff Quarry that are for sale. This printout is available at the address
 21 [http://www.gettyimages.ae/photos/nate-
 22 quarry?excludenudity=true&family=editorial&page=1&phrase=nate%20quarry&sort=mostpopular#lice
 23 nse](http://www.gettyimages.ae/photos/nate-quarry?excludenudity=true&family=editorial&page=1&phrase=nate%20quarry&sort=mostpopular#lince_nse), last visited March 23, 2017.

24 23. Attached as Exhibit 21 is a printout from Getty Images' website that was created at my
 25 direction. This document was created using Getty Images' "purchase price" calculator, at the
 26 www.gettyimages.com website.
 27
 28

24. Attached as Exhibit 22 is a true and correct copy of Plaintiff's Opposition to NCAA's Motion to Dismiss the Complaint, filed on October 27, 2009 in the matter *O'Bannon v. National College Athletic Association*, Case No. 4:09-cv-03329 CW (N.D. Cal.).

25. Attached as Exhibit 1 to the Declaration of Nathan Quarry is a document that was produced to Zuffa by Plaintiffs in this litigation. The document was produced to Zuffa with the Bates label LEPLAINTIFFS-0009472 through LEPLAINTIFFS-0009473. Attached hereto as Exhibit 23 is a true and correct copy of the document produced by Plaintiffs to Zuffa.

26. Attached hereto as Exhibit 24 is a true and correct copy of excerpts from the hearing on Zuffa's motion to dismiss, held before this Court on September 25, 2015.

I declare under penalty of perjury and the laws of the United States that the foregoing is true and correct and this Declaration is executed in San Francisco, California on March 24, 2017.

By: */s/Matthew S. Weiler*
Matthew S. Weiler